

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILD HORSE FREEDOM FEDERATION
14910 Wildwood Circle
Magnolia, Texas 77354

Plaintiff,

V.

BUREAU OF LAND MANAGEMENT
1849 C Street NW
Washington, DC 20240

Defendant.

Case No: 19-2206

COMPLAINT

I. INTRODUCTION

1. Plaintiff Wild Horse Freedom Federation (“WHFF”) brings this action seeking declaratory and injunctive relief to redress violations of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et. seq.*, by Defendant Bureau of Land Management (hereinafter “BLM”) in failing to provide WHFF with all non-exempt records responsive to its August 15, 2018, FOIA request to this federal agency, seeking copies of all emails and faxes sent to and from James (Jim) Cason and copies of all email

attachments sent to James (Jim) Cason, for the period of August 7, 2018, through August 15, 2018. James (Jim) Cason is the Associate Deputy Secretary of the U.S. Department of the Interior.

II. JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).

III. VENUE

3. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

IV. PARTIES

4. Plaintiff, Wild Horse Freedom Federation, is a non-profit organization that, at all times relevant herein, has been headquartered in Magnolia, Texas.

5. Defendant Bureau of Land Management is federal agency of the United States, and sub-component of the United States Department of the Interior, and as such, is an agency subject to the FOIA, pursuant to 5 U.S.C. § 552(f).

V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA

requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See* 5 U.S.C. § 552(a)(6)(C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

11. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, this Court may assess attorney fees and litigation costs

against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

VI. FACTUAL ALLEGATIONS

13. On or about August 15, 2018, WHFF sent a FOIA request to the Bureau of Land Management (BLM), seeking copies of all emails and faxes sent to and from James (Jim) Cason for the time period of August 7, 2018, to August 15, 2018, as well as copies of all email attachments sent to James (Jim) Cason for the same time period. James (Jim) Cason is the Associate Deputy Secretary of the U.S. Department of the Interior.

14. On or about August 22, 2018, BLM sent WHFF sent an email to WHFF with an attached acknowledgment letter dated August 21, 2018, for the August 15, 2018, FOIA request and assigning it the control number OS-2018-01519.

15. On or about October 22, 2018, WHFF sent an email to BLM, requesting an estimated date by which BLM expects to send WHFF the responsive records for the August 15, 2018, FOIA request.

16. On or about October 23, 2018, BLM sent an email to WHFF indicating that BLM was still awaiting records for the August 15, 2018, FOIA request.

17. On or about November 22, 2018, WHFF sent an email to BLM requesting an estimated date by which BLM expect to send the responsive records for the August 15, 2018, FOAI request.

18. On or about December 21, 2018, WHFF sent an email to BLM, once again requesting the agency provide an estimated date of completion for WHFF's August 15,

2018, FOIA request.

19. On or about January 27, 2019, WHFF sent another email to BLM, reiterating that the August 15, 2018, FOIA request sought Mr. Cason's emails and faxes, created or received from the time period of August 8, 2018, to August 15, 2018, as well as all email attachments on the emails sent to Mr. Cason during the same time period. WHFF further clarified that the request does not expect emails or faxes that were created or received after August 15, 2018.

20. On or about April 15, 2019, WHFF once again sent a follow-up email to BLM, requesting the agency provide an estimated date by which BLM could expect to receive records for the August 15, 2018, FOIA request.

21. On or about April 16, 2019, BLM sent an email to WHFF, stating that BLM is still waiting for program offices to send all potentially responsive records for the August 15, 2018, FOIA request.

22. On or about June 12, 2019, WHFF once again sent a follow-up email to BLM, requesting the agency provide an estimated date by which BLM could expect to receive records for the August 15, 2018, FOIA request.

23. On or about June 13, 2019, BLM sent an email to WHFF, stating that BLM is still waiting for program offices to send all potentially responsive records for the August 15, 2018, FOIA request.

24. As of the date of the filing of this action Plaintiff WHFF has still not

received any agency decision or any of the records which it requested in its August 15, 2018, FOIA request to the BLM.

VII. CLAIMS FOR RELIEF

25. WHFF realleges, as if fully set forth herein, paragraphs 1-24 previously set forth herein.

26. Defendant BLM has violated FOIA by failing to provide WHFF with all non-exempt responsive records for its August 15, 2018, FOIA request.

27. By failing to provide WHFF with all non-exempt responsive record to its August 15, 2018, FOIA request as described in paragraph 13 above, Defendant BLM has denied WHFF's right to this information, as provided by the Freedom of Information Act.

28. Defendant BLM has violated FOIA by failing to perform an adequate search reasonably calculated to locate all responsive records to WHFF's August 15, 2018, FOIA request.

29. By failing to perform an adequate search reasonably calculated to locate all responsive records to WHFF's August 15, 2018, FOIA request, Defendant BLM has denied WHFF's right to this information, as provided by law under the Freedom of Information Act.

30. Unless enjoined by this Court, Defendant BLM will continue to violate WHFF's legal rights to be provided with copies of the records that it has requested in its FOIA request described in paragraph 13 above.

31. WHFF is directly and adversely affected and aggrieved by Defendant BLM's failure to provide responsive records to its August 15, 2018, FOIA request described above.

32. WHFF has been required to expend costs and to obtain the services of a law firm, consisting of attorneys, law clerks, and legal assistants, to prosecute this action.

33. WHFF is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for WHFF, providing the following relief:

1. Declare Defendant BLM has violated FOIA by failing to provide WHFF with all non-exempt records responsive to its August 15, 2018, FOIA request.
2. Declare Defendant BLM has violated FOIA by failing to complete an adequate search for records responsive to WHFF's August 15, 2018, FOIA request.
3. Direct, by injunction, that Defendant BLM perform an adequate search for records responsive to its August 15, 2018, FOIA request, and provide WHFF with all non-exempt responsive records to WHFF's August 15, 2018, FOIA request.
4. Grant WHFF's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,
5. Provide such other relief as the Court deems just and proper.

DATED: This 24th day of July, 2019.

Respectfully submitted,

/s/

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